

REMARKS

Claims 1, 2, 5, 7-16 and 18 are pending in the application. Claims 1 and 14 have been amended for purposes of clarifying the inventive subject matter, and said amendments do not add any new matter with the meaning of 35 U.S.C. §132. Entry of the amendments to the claims as noted above is respectfully requested.

REJECTION UNDER 35 U.S.C. §112, second paragraph:

Claims 1-2, 5, 7 and 12-14 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Applicants respectfully traverse the rejection of claims 1-2, 5, 7 and 12-14 under 35 U.S.C. §112, second paragraph. Claim 1 has been amended thereby listing ingredients previously claimed in claims 3, 4 and 6. This amendment to claim 1 also corrects the lack of antecedent basis noted by the Examiner in claim 12. Claim 14 has also been amended correct the lack of antecedent basis noted by the Examiner.

Accordingly, the present claims particularly point out and distinctly claim the subject matter, which applicants regard as the invention. For these reasons in addition to others not set forth herein, the rejection of claims 1-2, 5, 7 and 12-14 under 35 U.S.C. §112, second paragraph, is inappropriate. Reconsideration and withdrawal of the rejection is respectfully requested.

DOUBLE-PATENTING REJECTION OF CLAIMS 1-7 AND 12-16

The Official Action states that claims 1-7 and 12-16 are

provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of copending application no. 10/466,756.

Applicant respectfully traverses this provisional rejection of claims 1-7 and 12-16.

In response to this provisional rejection, applicant respectfully draws the Examiner's attention to MPEP 804 I.(B) which states, in relevant part, the following with regards to provisional double patenting rejections between co-pending applications:

If the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the "provisional" double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent."

Applicant respectfully submits that, after entry of the above-mentioned amendments to claims 1 and 14, that the present rejection is the only rejection remaining in the captioned application.

Accordingly, applicant respectfully requests that the Examiner withdraw the present rejection and permit the captioned application to issue as a patent according to MPEP 804. The merits of any future obviousness-type double patenting rejection may be addressed in a future Official Action in copending U.S. Application Serial No. 10/466,756.

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Respectfully submitted,

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Date: Sept. 6, 2005

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